

REMARKS

This Amendment is submitted in response to the outstanding Office Action dated May 21, 2006. Favorable reconsideration of the application, and a Notice of Allowance, are respectfully requested.

Election/Restriction

Claims 41 and 42, which were withdrawn from consideration, have been canceled to further the prosecution.

Indefiniteness Rejections

Claims 43 and 44 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite. Claims 19 and 43 have been amended to clarify that the recited phrases relate to the properties of the mat used in the method, and are not separate method steps.

Applicants again submit that the properties of the mat used in the method are critical to the success of the method, and therefore they impart patentable limitations to the claimed method. The prior art neither teaches nor suggests using a mat having these properties in the recited surface paving method.

Prior Art Rejection

Claims 19, 22, 43 and 44 were rejected under 35 U.S.C. 103(a) as being unpatentable over Gnesa (U.S. Pat. No. 4,793,731) in view of Gallagher et al. (U.S. Pat. No. 5,869,413).

Gnesa discloses an apparatus for simultaneous application of liquified asphalt and paving fabric to a road surface. A layer of paving material is then applied over the asphalt-coated paving fabric. The paving fabric is not described. In contrast to the invention recited in the present claims, there is no suggestion in Gnesa to apply a nonwoven mat produced from a mixture of mineral fibers and polymer fibers, the fibers having a melting point above 330°F, and the mat having a load-elongation property such that the mat achieves at least 90% of its ultimate load at an elongation not greater than 5% of the mat length in the direction of applied tensile stress.

Gallagher et al. discloses a highway reinforcement product made from commingled glass fibers and asphalt fibers. The asphalt used to make the fibers can be modified with 2-30% polymer. In contrast to the invention recited in the present claims, there is no suggestion in Gallagher et al. to apply a nonwoven mat produced from a mixture of mineral fibers and polymer fibers, the fibers having a melting point above 330°F, and the mat having a load-elongation property such that the mat achieves at least 90% of its ultimate load at an elongation not greater than 5% of the mat length in the direction of applied tensile stress.

Specifically, Gallagher et al. does not disclose a mixture of mineral (glass) fibers and polymer fibers, but rather it discloses a mixture of glass fibers and asphalt fibers. The asphalt can be modified with 2-30% polymer, but they are asphalt fibers, not polymer fibers. The polymer fibers of the present invention are described as being polymer fibers, not asphalt fibers modified with a minor percentage of polymer. Thus, even if Gallagher et al. is combined with Gnesa, the resulting method is still different from the present invention.

Further, the modified asphalt fibers disclosed in Gallagher et al. do not have a melting point above 330°F as recited in the present claims. Examples II, III and IV of the Gallagher et al. patent disclose modified asphalt fibers having softening points of 285°F, 244°F and 302°F, respectively.

Moreover, there is no suggestion in Gallagher et al. to apply a mat having a load-elongation property such that the mat achieves at least 90% of its ultimate load at an elongation not greater than 5% of the mat length in the direction of applied tensile stress. The polymer modified asphalt fibers are described as having high flexibility or elasticity, but there is no suggestion of the elongation properties of a nonwoven mat made with a mixture of glass fibers and polymer fibers. A mat having an elongation greater than that claimed would not work well in the present invention.

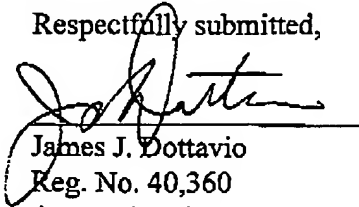
Therefore, it is respectfully submitted that claims 19, 22, 43 and 44 are not obvious over Gnesa in view of Gallagher et al.

In view of the above remarks, Applicants have shown that the claims are in proper form for allowance, and the invention, as defined in the claims, is neither

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disclosed nor suggested by the prior art. Accordingly, Applicants respectfully request reconsideration and withdrawal of the rejection and allowance of all claims.

Respectfully submitted,



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